

In the High Court of Punjab and Haryana at Chandigarh.

Date of decision: 22.07.2009

1.CWP No.7331 of 1988

Sat Ketu and others	.... Petitioners
Vs.	
The Additional Deputy Commissioner, Ludhiana and others	.... Respondents

2.CWP No.14349 of 1992

Tarsem Lal and others	.... Petitioners
Vs.	
Municipal Committee, Dhuri and another	.... Respondents

3.CWP No.3443 of 1988

Kasturi Lal	.... Petitioner
Vs.	
The Additional Deputy Commissioner, Ludhiana and another	.... Respondents

4.CWP No.131 of 1989

Baldev Singh and another	.... Petitioners
Vs.	
The Additional Deputy Commissioner, Ludhiana and others	.... Respondents

5.CWP No.15048 of 1992

RS Sethi	.... Petitioner
Vs.	
The State of Punjab and others	.... Respondents

CORAM: HON'BLE MR. JUSTICE PERMOD KOHLI.

Present: Mr.R.P. Kansal, Advocate, for the petitioners.

Mr.PC Goyal, Assistant Advocate General, Punjab.

Mr.B.S. Wasu, Advocate, for Municipal Committees.

Mr.Raj Kumar Gupta, Advocate, for respondents  
in CWP No.14349 of 1992.

Mr.Arun Palli, Senior Advocate, with  
Mr.Tushar Sharma, Advocate, for respondents  
in CWP No.15048 of 1992.

PERMOD KOHLI, J. (Oral):

Since common questions of law and facts are involved in these writ petitions, the same are disposed of by this common order.

The petitioners in all these cases are aggrieved of the enhancement of the rental value of the premises which has been made the basis for assessment of the house tax. The petitioners have relied upon Section 62 of the Punjab Municipal Act (hereinafter referred to as “the Act”) to challenge the assessment. From the bare reading of Section 62 of the Act aforesaid, it is evident that this section applies where assessment is to be made for the first time. In the present cases, the properties are already assessed for the purposes of payment of House Tax and it is only the order of enhancement of the House Tax which has been impugned in these petitions.

Learned counsel for the respondents has, however, taken the shelter of Section 67 of the Act. Section 67 of the Act permits reassessment or revision of the assessment under the circumstances indicated therein which, inter-alia, includes the erroneous assessment on account of mistake, fraud etc. The present cases do not fall in any of the conditions. However, Section 65 of the Act deals with revision of the assessment list, but this requires a public notice. Admittedly, no public

noticed has been issued.

Apart from the above, the respondents have assessed the rental value without any parameters being adopted, primarily on the grounds that adjoining premises is fetching a particular amount as rent. The issue relating to the assessment of the rental value has been considered by the Apex Court in Dewan Daulat Rai Kapoor etc. etc. Vs. New Delhi Municipal Committee and another etc. etc., AIR 1980, Supreme Court, 54, wherein the following observations have been made:-

“11. ....We are, therefore, of the view that, even if the standard rent has not been fixed by the Controller, the landlord cannot reasonably expect to receive from a hypothetical tenant anything more than the standard rent determinable under the Act and this would be so equally whether the building has been let out to a tenant who has lost his right to apply for fixation of the standard rent or the building is self-occupied by the owner. The assessing authority would, in either case, have to arrive at its own figure of the standard rent by applying principles laid down in the Delhi Rent Control Act, 1958 for determination of standard rent and determine the annual value of the building on the basis of such figure of standard rent.”

Admittedly, in all these cases it is alleged by the petitioners that

the premises are governed by the Rent Legislation and in view of the dictum of the judgment of the Hon'ble Apex Court, the rental value could be as is being received by the landlord or where there is no such material, the fair rent being payable under Section 3 (1) (b) of the Act, is applicable.

In view of the above circumstances, the impugned orders are unsustainable in law and are liable to be set aside. I order accordingly. Consequently, the matters are remitted back to the Municipal Committees concerned for reassessment of the rental value in accordance with the judgment of the Hon'ble Apex Court mentioned above. The concerned Municipal Committees will pass fresh orders after affording opportunity of being heard to the petitioners.

With these observations the writ petitions are disposed of.

The parties through their counsel are directed to appear before the concerned Municipal Committees on 01.09.2009 for further proceedings.

A copy of this order be placed on the record of each concerned file.

22.07.2009  
BLS

(PERMOD KOHLI)  
JUEGE

Note: Whether to be referred to the Reporter? NO